IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CENTRAL EXCISE APPEAL NO.7 OF 2005

The Commissioner of Central Excise ..Appellant.

V/s.

M/s.Delash Beverages ..Respondent.

Mr.S.S.Pakale with Y.R.Mishra i/b. Dr.T.C.Kaushik for appellant.

CORAM : V.C. DAGA AND
J.P.DEVADHAR, JJ.

DATED : 20TH OCTOBER, 2005.

P.C. :-

1. Notice served through private courier on the respondent cannot be accepted as good service. Affidavit of service is, therefore, rejected.

2. Absence of service on the respondent need not detain us to hear and dispose of this appeal. Impugned order needs small clarification to serve ends of justice.

3. Appeal was dismissed by the Commissioner of Central Excise for want of compliance of the order of pre-deposit. Subsequently, during the pendency of the

appeal against the order of dismissal, the respondent has complied with the order of pre-deposit. The Tribunal has thus set aside the order impugned in the appeal and directed the Commissioner (Appeals) to hear the appeal on merits. However, while passing this order the Tribunal has directed not to insist upon fresh order of pre-deposit, meaning thereby that no further pre- deposit over and above the amount of Rs.2 lakhs should be asked for. With this clarification, the appeal needs to be dismissed being devoid of any merits. In the result, this appeal is dismissed in limine with no order as to costs.

(V.C. DAGA, J.)

(J.P.DEVADHAR, J.)